

Fresno, California

January 9, 2007

The City Council met in regular session at the hour of 8:34 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

Andy Souza, City Manager
James Sanchez, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Dewey Slater, President of Temple Beth Israel gave the invocation, and President Duncan led the Pledge of Allegiance.

PROCLAMATION TO OUTGOING COUNCILMEMBER BOYAJIAN

Presented by President Duncan who commended Councilmember Boyajian for his service and for his passion and dedication to his district.

Councilmember Boyajian spoke to his service and to the great people he met during his eight year tenure, and thanked his family, his staff, past and present City staff, and his Council colleagues, both past and present, elaborating throughout.

ADMINISTRATION OF OATHS OF OFFICE AND INSTALLATION OF COUNCILMEMBERS XIONG, STERLING, DAGES AND PEREA

Oaths of Office were administered to Councilmember-elect Blong Xiong and re-elected Councilmembers Sterling, Dages and Perea, who upon taking their seats at the dais thanked their families, friends, supporters and district residents, and spoke to their commitment to serve the city and its residents, to their priority issues, to the important issues facing the city, and/or to their accomplishments **(2 - 0)**.

ELECTION OF COUNCIL PRESIDENT AND ACTING COUNCIL PRESIDENT

President Duncan explained the rotation system and that Acting President Perea would become President and Councilmember Xiong Acting Council President, and thanked Council for the opportunity to act as President this past year adding it was an honor working with them. Councilmember Calhoun also spoke to the rotation system stating it worked as each member of the Council was qualified, each was elected by their constituents, and each one was a leader, and spoke briefly to how President Duncan did not utilize the Council Analyst position this year and commended him for an excellent year as Council President.

On motion of President Duncan, seconded by Councilmember Sterling, duly carried, **RESOLVED**, Councilmember Perea elected Council President and Councilmember Xiong elected Acting Council President, by the following vote:

Ayes	:	Calhoun, Dages, Perea, Sterling, Westerlund, Xiong, Duncan
Noes	:	None
Absent	:	None

Council President Perea thanked Councilmember Duncan for his leadership this past year and presented him with a gift.

ELECTION OF REDEVELOPMENT AGENCY CHAIR AND VICE CHAIR

On motion of President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, Councilmember Sterling re-elected Chair and Councilmember Dages elected Vice Chair of the Redevelopment Agency, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

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RECESS - 9:31 A.M. - 2:01 P.M.

A moment of silence was observed for ex-Facilities Manager Peggy Hendricksen who passed away on New Year's Eve.

PROCLAMATIONS FOR POLICE OFFICERS TREVOR SHIPMAN AND DANIEL MESSICK

The proclamations were presented by Mayor Autry who along with Chief Dyer and President Perea spoke further to the circumstances of the call for service and subsequent shootings that occurred and commended Officers Shipman and Messick for their heroism and for serving and protecting the community.

PRESENTATION OF THE SPCA PET OF THE MONTH - COUNCILMEMBER CALHOUN

"Tanner", a two month old male terrier mix available for adoption,, was presented.

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APPROVE MINUTES OF DECEMBER 12, 2006

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the minutes of December 12, 2006, approved, as corrected, on Pages 148-211 and 148-212, showing Councilmembers Perea and Sterling "absent" rather than voting "no".

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COUNCIL MEMBER REPORTS AND COMMENTS:

COUNCILMEMBER DAGES: Request staff pursue as quickly as possible Measure C/Tier One funding for the widening of Peach Avenue from Olive to Jensen Avenues.

COUNCILMEMBER CALHOUN: Announcement of teaching schedule change and inability to participate in Council matters considered during the normal lunch period of 12:00 noon to 2:00 p.m.

PRESIDENT PEREA: (1) Pursuant to AB 1234, report on trip to San Diego to attend the Latino Caucus goal-setting meeting; and (2) relative to Peach Avenue widening, recommend Councilmember Dages work with the Mayor and Councilmember Westerlund as the City's Transportation Authority Board member.

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APPROVE AGENDA:

(4:00 P.M.) ADOPTION OF AGENCY BOARD RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION FOR, AND A COUNCIL/AGENCY JOINT RESOLUTION APPROVING, A D&DA BETWEEN THE AGENCY AND E.I.E. ALPHA, TO SELL A PORTION OF THE CHERTA FARMS PROPERTY FOR THE DEVELOPMENT OF THE HOBBS PARSONS BUILDING PROJECT, AND MAKING RELATED FINDINGS (Continue to January 23, 2007, at 5:10 p.m.)

Continued as noted.

CONSENT CALENDAR ITEMS 1-K AND 1-L

this date. (Councilmember Calhoun later spoke further to the issue.)

SPECIAL MEETING NOTICE - ADD-ON ITEM

City Clerk Klisch advised the Special Meeting Notice added an additional item to the agenda and advised it would be part of, and considered/adopted with, the Consent Calendar (Item 1-T). So noted.

(1-R) CONSIDERATION OF COUNCIL DISTRICT PLAN IMPLEMENTATION COMMITTEES - COUNCILMEMBER DUNCAN 1. BILL NO. B-179 - ADDING SECTION 12-611 TO THE FRESNO MUNICIPAL CODE RELATING TO COUNCIL DISTRICT PLAN IMPLEMENTATION COMMITTEES

Laid over to January 23, 2007, at the direction of Councilmember Duncan.

CONSENT CALENDAR "TIME SENSITIVE MATTERS" - COUNCILMEMBER CALHOUN

Referencing the City Clerk's prior comments on Items 1-K and 1-L, Councilmember Calhoun questioned what the meaning was of "time sensitive", why the items were not being laid over to January 23rd as noted on the agenda, and why the time sensitive items were placed on the Consent Calendar which is usually for standard/routine matters, with City Manager Souza responding and clarifying what was at issue. Councilmember Calhoun requested when situations like this occur in the future that language be added to the agenda for the public's benefit explaining that time sensitive matters will be acted on the date they are scheduled and not laid over to the next meeting with other items pulled from Consent.

On motion of Councilmember Westerlund, seconded by President Perea, duly carried, **RESOLVED**, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes	:	None
Absent	:	None

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ADOPT CONSENT CALENDAR:

Commenting on and speaking in support of Item **1-S** were: Charlie Waters; David Finster, retired Minister of the First Congregational Church and Vietnam veteran; Barbara Hunt, 2475 S. Walnut; and Chuck Parnell.

Councilmember Calhoun commended staff on Measure "C" and the CAFR report, and pulled Item **1-D** from the Consent Calendar for discussion.

Councilmember Westerlund registered a "no" vote on item **1-H**.

Councilmember Calhoun registered an "abstention" on Item **1-S**.

(1-A) APPROVE A MILITARY CONSTRUCTION COOPERATIVE AGREEMENT (MCCA) TO PROVIDE LEGAL ACCESS TO THE NATIONAL GUARD BUREAU FOR REPAIR OF THEIR AIRCRAFT ARRESTING GEAR AT THE APPROACH END OF RUNWAY 11R AT FYI AIRPORT, AND AUTHORIZE THE DIRECTOR OF AVIATION TO SIGN THE MCCA ON BEHALF OF THE CITY

(1-B) APPROVE AN AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES WITH COFFMAN ASSOCIATES, INC., FOR PREPARATION OF AN ENVIRONMENTAL ASSESSMENT RELATING TO DEVELOPMENT PROJECTS ON THE NORTH SIDE OF FRESNO CHANDLER EXECUTIVE AIRPORT, AND AUTHORIZE THE DIRECTOR OF AVIATION TO EXECUTE THE AGREEMENT

(1-C) SUBMISSION FOR INFORMATIONAL PURPOSES OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORTS ("CAFRs") REGARDING THE FINANCIAL ACTIVITIES OF THE CITY OF FRESNO RETIREMENT SYSTEMS FOR THE FISCAL YEAR ENDING JUNE 30, 2006

(1-E) CONSIDER THE PROPOSED SHIELDS-ARMSTRONG NO. 3 REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR DETACHMENT OF THE TERRITORY FROM THE FRESNO COUNTY FIRE PROTECTION DISTRICT AND KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE TERRITORY TO THE CITY OF FRESNO

1. ADOPT THE ENVIRONMENTAL FINDING FOR THE E.A. DATED 12/11/06, THAT THE PROJECT PROPOSAL CONFORMS TO THE GENERAL PLAN MEIR

2. RESOLUTION NO. 2007-1 - APPLYING TO LAFCO IN THE MATTER OF THE SHIELDS-ARMSTRONG NO. 3 REORGANIZATION

(1-F) CONSIDER THE PROPOSED CHURCH-FOWLER NO. 2 REORGANIZATION AND APPROVAL TO FILE WITH LAFCO FOR DETACHMENT OF THE TERRITORY FROM THE FRESNO COUNTY FIRE PROTECTION DISTRICT AND KINGS RIVER CONSERVATION DISTRICT AND ANNEXATION OF THE TERRITORY TO THE CITY OF FRESNO

1. ADOPT THE ENVIRONMENTAL FINDING FOR THE E.A. DATED 12/11/06, THAT THE PROJECT PROPOSAL CONFORMS TO THE GENERAL PLAN MEIR

2. RESOLUTION NO. 2007-2 - APPLYING TO LAFCO IN THE MATTER OF THE CHURCH-FOWLER NO. 2 REORGANIZATION

(1-G) RESOLUTION NO. 2007-3 - APPROVING THE FINAL MAP OF TRACT NO. 5188 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, SOUTHWEST CORNER OF E. BUTLER AND S. TEMPERANCE AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR, THE PUBLIC UTILITIES DIRECTOR AND THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS

(1-I) APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH URS AMERICAS FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE ORGANIC UPGRADE PROJECT AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

(1-J) RESOLUTION NO. 2007-4 - AUTHORIZING THE PURCHASING MANAGER TO NEGOTIATE AND ENTER INTO A CONTRACT FOR PROVIDING, AT NO COST, A SURPLUS HYDRO PNEUMATIC WATER TANK LOCATED NEAR HERNDON AVENUE AND HIGHWAY 99 TO THE HERNDON WATER COMPANY

(1-K) ADOPT RESOLUTION OF INTENTION NO. 1058-D SETTING THE HEARING FOR FEBRUARY 6, 2007, TO CONSIDER THE VACATION OF A PORTION OF W. CATTEN AVENUE NORTHEAST OF N. WEBER AVENUE, AND PORTIONS OF N. WEBER FROM NORTH OF W. CATTEN TO SOUTH OF W. DEVLAN AVENUES

(1-L) ADOPT RESOLUTION OF INTENTION NO. 1057-D SETTING THE PUBLIC HEARING FOR FEBRUARY 6, 2007, TO CONSIDER THE VACATION OF A PORTION OF S. CRYSTAL AVENUE SOUTH OF WHITESBRIDGE AVENUE

(1-M) AWARD A CONTRACT IN THE AMOUNT OF \$221,590.25 TO SERNA CONSTRUCTION, INC., FOR INTERSECTION IMPROVEMENTS AT BUTLER AND ORANGE AVENUES

(1-N) RESOLUTION NO. 2007-5 - INTENT TO ANNEX FINAL TRACT NO. 5424 AS ANNEXATION NO. 133 TO CFD NO. 2 AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES

(1-O) RESOLUTION NO. 2007-6 - APPROVING AMENDMENT NO. 1 TO THE CONTRIBUTION AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR INSTALLATION/OPERATION/MAINTENANCE OF A TRAFFIC SIGNAL CONTROLLER AT THE BELMONT/CLOVIS INTERSECTION, AND AUTHORIZING THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AMENDMENT AND ALL RELATED DOCUMENTS ON BEHALF OF THE CITY

(1-P) RESOLUTION NO. 2007-7 - APPROVING THE SUMMARY VACATION OF A PORTION OF A PUBLIC UTILITY EASEMENT LOCATED IN PARCEL MAP NO. 2002-13 ON THE EAST SIDE OF CEDAR AVENUE BETWEEN DAKOTA AND HAMPTON WAY

(1-Q) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH TRANSMAP IN THE AMOUNT OF \$999,999 FOR CITYWIDE PAVEMENT ASSESSMENT AND ASSET INVENTORY SERVICES AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE SAME ON BEHALF OF THE CITY; AND APPROVE A PURCHASE ORDER IN THE AMOUNT OF \$730,930 TO AUTHORIZE A NOTICE-TO-PROCEED FOR PHASE I OF THE AGREEMENT

(1-T - ADD-ON) APPROVE A COST REIMBURSEMENT AGREEMENT IN AN AMOUNT NOT TO EXCEED \$1,300,000 WITH CALIFORNIA STATE UNIVERSITY, FRESNO, TO CONSTRUCT A 30-INCH WATER TRANSMISSION MAIN IN CHESTNUT AVENUE; AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

(1-H) AWARD A CONTRACT TO WITBRO INC., D.B.A. SEAL RITE IN THE AMOUNT OF \$827,680.02 FOR THE INSTALLATION OF STREET INFRASTRUCTURE IN NO NEIGHBORHOOD LEFT BEHIND AREA 62 IN DISTRICT 5

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled contract awarded to Witbro, Inc., D.B.A. Seal Rite, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Xiong, Perea
Noes : Westerlund
Absent : None

(1-S) BILL NO. B-174 - ORDINANCE NO. 2007-1 - ADDING SECTION 8-135 TO THE FRESNO MUNICIPAL CODE RELATING TO PROTESTS AT FUNERALS

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-174 adopted as Ordinance No. 2007-1, by the following vote:

Ayes : Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None
Abstain : Calhoun

CONTESTED CONSENT CALENDAR:

(1-D) AUTHORIZE ACCEPTANCE OF FISCAL YEAR 2006 CYCLE STATE HOMELAND SECURITY PROGRAM FUNDS SUB-GRANTED FROM THE GOVERNOR'S OFFICE OF HOMELAND SECURITY, AS A PART OF THE U.S. DEPARTMENT OF HOMELAND SECURITY'S GRANT PROGRAM

1. RESOLUTION NO. 2007-8 - 50TH AMENDMENT TO THE AAR APPROPRIATING \$332,000 FOR THE PURCHASE OF PHYSICAL SECURITY ENHANCEMENT EQUIPMENT AND TO FUND THE CITIZEN CORPS AND COMMUNITY EMERGENCY/RESPONSE TEAM (C.E.R.T.) PROGRAMS

Chief Dyer and City Manager Souza responded to questions and comments of Councilmember Calhoun relative to amount of funding being provided to the Citizens Corps and C.E.R.T. programs, funding for video cameras and **(3 - 0)** if Homeland Security (HS) dollars was an appropriate funding source, if the purpose of HS funds was to monitor Manchester Center, how the \$400,000 was going to be used particularly in terms of the video cameras, what happened to the Pelco single source camera purchase that never came back to Council, and if purchases could be made administratively using the existing GSA contract.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, acceptance of the FY 2006 Cycle State Homeland Security Grant program funds for a total of \$405,000 hereby authorized, and the above entitled Resolution No. 2007-8 hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

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(2:15 P.M.) UNSCHEDULED COMMUNICATION:

Barbara Hunt, 2475 S. Walnut, spoke to the need and importance of providing resources to the Police and Fire Departments to do their jobs.

Franz Weinschenk commended Council for Fresno becoming a member of the U.S. Mayor's Climate Control Agreement and spoke to what other member cities are doing about renewable energy and what more Fresno can do.

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(2:45 P.M. "A") BILL NO. B-1 - ORDINANCE NO. 2007-2 - INTRODUCTION AND ADOPTION OF INTERIM ORDINANCE EXTENDING FOR AN ADDITIONAL 60 DAYS THE TEMPORARY MORATORIUM ON THE APPROVAL OF ANY LAND USE ENTITLEMENTS AND SPECIAL PERMITS FOR ADULT BOOKSTORES, ADULT MOTION PICTURE THEATERS OR ADULT THEATERS THAT COUNCIL INITIALLY IMPOSED BY ORDINANCE NO. 2006-161 ADOPTED 11/28/06

Upon question of President Perea, Planning & Development Director Yovino advised the staff report as submitted was complete and added the reason for the extension request was that staff needed more time to complete their research.

Barbara Hunt, 2475 S. Walnut, spoke in support of staff's recommendation.

City Attorney Sanchez and Mr. Yovino responded to questions and comments of Councilmember Calhoun relative to the need to be fair, the issue with the applicant at the 11/28/06, Council meeting, if the City was intruding on the applicant's rights with continuous postponements, legal recourse for the applicant, if the applicant was aware the CUP was deemed denied, and what staff will be reporting back with.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-1 introduced and adopted as Ordinance No. 2007-2, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

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(2:45 P.M. "B") CONSIDER STREET NAME CHANGE APPLICATION NO. SNC-06-01 AND ENVIRONMENTAL FINDINGS FILED BY GARY L. McDONALD OF GARY McDONALD HOMES, FARID ASSEMI OF GRANVILLE HOMES, AND BILL TATHAM, SR., OF COPPER RIVER COUNTRY CLUB, PERTAINING TO PROPERTY BOUND BY E. COPPER TO THE SOUTH, FRIANT ROAD TO THE NORTH AND WEST, AND N. MAPLE TO THE EAST, ALL WITHIN THE "COPPER RIVER RANCH" PLANNING COMMUNITY PROJECT

1. ADOPT E.A. NO. SNC-06-0, DATED DECEMBER 15, 2006, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF NO POSSIBILITY OF SIGNIFICANT ADVERSE EFFECT

2. RESOLUTION NO. 2007-9 - APPROVING STREET NAME CHANGE APPLICATION NO. SNC-06-01 TO RENAME N. COPPER RIVER AVENUE TO ALICANTE DRIVE, E. CLUB HOUSE AVENUE TO CLUBHOUSE DRIVE, AND E. RIVERBANK AVENUE TO COPPER RIVER DRIVE

Upon question of President Perea staff advised the staff report was complete and there was no new information to add.

Speaking in support of the issue were: Barbara Hunt, 2475 S. Walnut; and Copper River Ranch representative Bob Dylan with Gary McDonald Homes, who also explained the reason for the request and advised "Alicante" was the name of a grape from Italy that was brought to the property over 100 years ago.

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled environmental finding for the E.A. hereby approved and the above entitled Resolution No. 2007-9 hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

(2:45 P.M. "C") APPROVE \$3,910,000 IN HOME PROGRAM FUNDS TO ASHWOOD TOWNHOMES, INC., FOR THE DEVELOPMENT OF THE OAK PARK SENIOR VILLAS AT WILLOW AND JENSEN AVENUES

Reviewed by HCD Manager Sigala who advised this was going to be a 65-unit affordable housing complex for seniors only, the project would be designed with universal design features making the units fully accessible for anyone, and the developer agreed to defer all developer fees for the project and explained.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Mr. Sigala responded to questions of Councilmember Westerlund relative to this project not being listed in HCD's proposed capital projects, project changes, concern with the inability to see the projects in a broader context, if this project went through the Interagency Housing Task Force, and request for an update on which projects are out and which ones are now in. Councilmember Dages commended Mr. Sigala and spoke in support of the project, to the high demand for affordable senior housing, and to the local developer and his high quality projects. President Perea also spoke briefly in support.

On motion of Councilmember Dages, seconded by Councilmember Dages, duly carried, RESOLVED, \$3,910,000 in HOME program funds for the acquisition and development of the Oak Park Senior Villas hereby approved, and assignment of the previously approved City purchase and sale agreement to Ashwood Townhomes, Inc., authorized, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea
Noes : None
Absent : None

(3:00 P.M.) CONSIDERATION/ACTION REGARDING: (1) REQUEST FOR A REPORT FROM THE CITY MANAGER ON THE FINANCIAL AUDIT AND OPERATIONAL STATUS OF THE FRESNO COUNTY CONVENTION AND VISITORS BUREAU ("CVB"), AND (2) REQUEST THE CONTROLLER RETURN TO COUNCIL ON JANUARY 23, 2007, WITH A RESOLUTION TRANSFERRING THE REMAINING FUND BALANCE APPROVED FOR THE CVB INTO A CONTINGENCY FUND - COUNCILMEMBER CALHOUN

Councilmember Calhoun stated the CVB has served the City well over the years and spoke to taxpayer dollars that are entrusted to the CVB to operate and bring in conventions, to the recent challenges the CVB has faced, to the changes that occurred with the hiring of SMG and SMG taking over supervision of the CVB, and to the financial and operational problems that occurred; spoke to the City Manager's memo dated December 29th relative to an MOU for the CVB and to the March 19th deadline for the CVB Board to comply/complete their fiscal and operational audits and requested a status report on the progress of the MOU and agreement be provided at the March 20th Council meeting; noted the MOU stated SMG would now approve all expenditures for the CVB to ensure fiscal oversight and presented questions relative to what the standards and criteria were now for approving expenditures, if there has been a meeting to discuss the implementation of procedures for expenditure approvals, can/should Council put the current funding not paid to the CVB into a contingency account for future discussion and consideration of payments, and if the bookkeeper or others involved will be required to pay restitution to the taxpayers; and per his memo to Council requested (1) the City Manager speak to the CVB's current status of hiring a firm to conduct a comprehensive audit and to the requirements of the CVB to comply with public agency laws (Brown Act, California Public Records Act), and (2) the Controller return on January 23rd with a resolution placing the balance of the unpaid funding to the CVB into a contingency fund to assure that no additional funding is paid to them prior to a complete audit. City Manager Souza responded, spoke to staff's position, and clarified issues **(4 - 0)**, and upon completion responded to additional questions of Councilmember Calhoun relative to what criteria SMG was using before the MOU and what role the CVB Board had in the current MOU environment.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

Councilmember Duncan complimented Mr. Souza for his explanation and stated he has felt very comfortable and has been kept informed by Mr. Overfelt and SMG and added they were doing their best to resolve an issue that they probably inherited; stated the MOU and SMG's plan of action was very appropriate and would do a good job of protecting taxpayer dollars; relative to placing unpaid funds into a contingency account questioned what City could and could not do (with City Attorney Sanchez responding and advising of remedies available); and stated Mr. Souza was correct in his recommendation to let the process continue to its' conclusion. Upon questions of Councilmembers Xiong and Calhoun, Mr. Souza advised the issue of staff being denied access to the CVB's books had been resolved, SMG and the CVB had agreed upon an audit firm and an engagement letter was being finalized to complete the audit, the City would be seeking restitution to the extent possible, and the City was operating as transparently as possible and was not doing anything to violate the Brown Act and Public Records Act. There was no action taken and no further discussion.

(2-A) DISCUSSION/ACTION REGARDING: (1) ESTABLISHING A COUNCIL SUB-COMMITTEE ON THE ISSUE OF CITYWIDE STREET IMPACT FEES; AND (2) HIRING AN INDEPENDENT MEDIATOR TO EXPEDITE A SUCCESSFUL RESOLUTION TO STAKEHOLDER CONCERNS RELATED TO THOSE FEES - COUNCILMEMBER CALHOUN

Councilmember Calhoun requested Council consider one or both of his recommendations as outlined in his report to Council as submitted, stated he was sad that Council was still struggling with this and added he was trying to reach into a different direction from his earlier request to not approve any further developments until this matter is resolved, and commented further and expressed his concerns.

Speaking to the issue were: Mike Prandini, representing the BIA, who stated he had no problem with a sub-committee, he felt the process of hiring of a mediator and the mediator's work would take too much time, and stated in the next two weeks significant progress should be made; and Barbara Hunt, 2475 S. Walnut, who stated it was unfair to pass the fees on to the home buyer.

Councilmember Westerlund stated he appreciated the frustration but clarified and emphasized this was not a simple task as he has been involved in dialogue with staff and sat in on meetings and elaborated, and stated at stake was taking the time to get this right and engage stakeholders so the City does not end up in litigation in the future. There was no action taken and no further discussion.

(2-B) CONSIDERATION OF A RESOLUTION EXPRESSING THE CITY'S INTENT TO ADOPT A CITYWIDE IMPACT FEE FOR LOCAL REGIONALLY SIGNIFICANT MAJOR STREETS AND AN IMPACT FEE BASED ON QUADRANTS FOR LOCAL MAJOR STREETS TO IMPLEMENT THE GOALS/OBJECTIVES/POLICIES OF THE 2025 GENERAL PLAN - PRESIDENT DUNCAN

Councilmember Duncan noted Council requested a commitment from staff to bring back this date a resolution of intent for adoption to start the process of capturing much needed major street impact fees from projects and elaborated; advised he was told by staff that two resolutions (industry and staff recommendations) would be scheduled which had a \$100 million gap between them and stated he was disappointed to find out late last week the resolutions were not ready and were pulled and a Council policy debate on the gap would not occur; and expressed his concern and stated this resolution was all that could be placed on the agenda, he felt the issue was ready for action, and all that delays would do would make future projects more expensive.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut; and Mike Prandini, BIA, who requested this matter be continued to January 23rd with a complete report from staff, stated the information in the subject resolution was based on the MuniFinancial report which the industry felt was seriously flawed, and stated hopefully there would not be competing proposals from staff and the stakeholders on January 23rd.

Councilmember Duncan presented questions and additional comments which included the email received from Jeff Reid opposing this item and containing their position on the fees, a thank you to staff for the memo received this date, staff's reason for removing the scheduled agenda item being to get more information on other jurisdiction's fees and what staff will do with that information once received, if there was disagreement on the \$646 million cost figure to put in the infrastructure, if recommendations will be made on January 23rd on how to fill the \$100-\$200 million gap, if the general plan MEIR will be in jeopardy/if there will be consequences if fees are set too low, if there is a chance fees may be reduced after obtaining the information on other jurisdictions due to their fees and competitiveness **(5 - 0)**, and how committed staff was to having the resolution of intent before Council on January 23rd, with Assistant City Manager Ruiz and Planning & Development Director Yovino responding throughout. Councilmember Duncan commended Assistant P&D Director Berghold for all his work and stated Council needed to be prepared to make the tough decision due to the numbers being so big, the spread so wide, and the infrastructure having to be built in order for the city to function, and stated he had no intention of making a motion on this resolution and added staff has committed to having the information presented on January 23rd.

Councilmember Calhoun commented and presented questions relative to MuniFinancial being “kicked to the proverbial curb twice”, how much MuniFinancial was paid to provide information the City is not paying attention to, concern with trying get the proverbial deal and not doing what is best for the city, who gave direction to MuniFinancial on what to bring forward, and perception that comparisons were already made and concern that this sounds more like negotiations, with Mr. Ruiz responding throughout. There was no further discussion.

(2-C) DIRECT STAFF TO RESEARCH, DRAFT AND RETURN TO COUNCIL WITH AN ORDINANCE ESTABLISHING A PERMANENT FINANCE/AUDIT COMMITTEE OF THE CITY COUNCIL - COUNCILMEMBER WESTERLUND *(As amended directing staff return with a Resolution rather than an Ordinance)*

Councilmember Westerlund reviewed the issue and his proposal for a 3-member Council committee, all as contained in his report to Council as submitted; elaborated on the importance and need for a Council committee to drill down and learn more information on what happens with audits; clarified this would not be a budget committee adding that tended to be more political and his intent was for this committee to be more technical; and stated the City needed to operate more like a corporation, other cities have these committees and it was time for Fresno to do the same, and made a motion to direct staff as outlined above.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Councilmember Duncan expressed his support and stated although he felt finance issues were more important than audits he felt the idea had a lot of merit, and requested the motion be amended to (1) have staff report back with a resolution rather than an ordinance, and (2) make it the authority of the Council President to select the Chair of the committee with the Chair selecting the other two committee members. Councilmember Westerlund agreed with request #1 stating whatever staff brings back was fine with him, and relative to #2 clarified that was how the selection process was written. Councilmember Duncan seconded the motion stating it was an appropriate time for Council to take the next step as the city emerges to a 21st century city and added a number of committees are going to be needed in a few years when Council grows to nine members as that is going to be the only way to get things done.

Councilmember Dages spoke in opposition stating it was Council’s job to question anything the Finance Department does, it was not necessary to have another level of bureaucracy and another committee to oversee the department, this committee would be political (referencing Councilmember Westerlund’s comments), and he had faith in staff and they were already doing a fine job.

Lengthy discussion ensued with City Attorney Sanchez, Controller Rousseau and City Manager Souza responding to questions and/or comments of Councilmembers Sterling and Calhoun and/or speaking to/clarifying issues relative to the committee make-up, what audit committees typically do, violations with Council and staff, why the Mayor and City Manager were excluded from the committee structure, if an audit committee member could also serve on a budget committee, if the Administration has been involved with past Council budget committees, having mixed feelings on this issue, Council maybe not asking the correct questions of staff/staff responding when information is requested by a Council majority, and support for the motion to see what the City Attorney brings back. **(6 - 0)** Councilmember Calhoun clarified he has not been supportive of the council analyst position and would not support this committee and the analyst position as he could not justify the two. Councilmembers Duncan and Westerlund clarified the intent of the committee was not to oversee the Finance Department but to get into the depth of issues, to help facilitate Council’s financial oversight responsibility to the taxpayer, and be a technical committee to look at audits in more detail; and stated the Charter would guide the structure, the involvement of the City Manager and Mayor was discussed and by including the Controller was considered having staff, the committee was for the Council’s benefit and understanding and not the Administrations’, this would be an open committee with administration representation, and this was not an “abrogation of authority” issue. Mr. Rousseau responded briefly to questions of Councilmember Dages relative to Fresno County’s audit committee and member make up. Mr. Souza clarified the Auditor/Controller of Fresno County was an elected position and not appointed which created a different chain of command and reporting structure, and stated the concept of an audit committee was fine but added when it transitions to more than that there was a likelihood of things becoming political and recommended the City Manager sit in along with a representative of the Mayor’s office and not place the Controller in a position of having to be a member of a committee in which the person he reports to is not a member.

President Perea stated he felt this was a good idea to explore, he was supportive of seeing what staff brings back, and the City Attorney heard all the concerns.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, **RESOLVED**, staff directed to research, draft and return to Council with a Resolution establishing a permanent Finance/Audit Committee of the City Council, by the following vote:

Ayes : Calhoun, Duncan, Westerlund, Xiong, Perea
Noes : Dages, Sterling
Absent : None

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ADJOURNMENT

There being no further business to bring before the City Council, the hour of 5:20 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

Approved on the ____23rd____ day of ____January____, 2007.

_____/s/____ ATTEST: _____/s/____
Henry T. Perea, Council President Yolanda Salazar, Assistant City Clerk